

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



July 20, 2005

Regulation Package #0205-02

CDSS MANUAL LETTER NO. CCL-05-10

TO: HOLDERS OF THE COMMUNITY CARE LICENSING MANUAL, TITLE 22, DIVISION 6,
CHAPTER 1, GENERAL LICENSING REQUIREMENTS

Regulation Package #0205-02**Effective 6/15/05****Sections 80027 and 80036**

This manual letter has been posted on the Office of Regulations Development website at http://www.dss.cahwnet.gov/ord/GeneralLic_630.htm.

The Budget Act for 2004-2005 included changes to the CCL fee structure that increased licensing fees and established new fees. SB 1104 authorizes the Department to collect licensing fees. Current regulations are inconsistent with and superceded by the new statute. Changes are necessary to make the regulations consistent with the amended licensing fee statutes.

These regulations were nonsubstantive; therefore, no public hearing was held.

FILING INSTRUCTIONS

Revisions to all manuals are shown in graphic screen. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Community Care Licensing changes was Manual Letter No. CCL-05-09. The latest prior manual letter containing General Licensing Requirements regulation changes was Manual Letter No. CCL-05-01.

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69 through 72

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TABLE OF CONTENTS

TITLE 22, DIVISION 6

CHAPTER 1 GENERAL LICENSING REQUIREMENTS

Article 1. General Definitions

	Section
General	80000
Definitions	80001

Article 2. License

License Required	80005
Operation Without a License	80006
Exemption From Licensure	80007
Licensing of Integral Facilities	80008
Limitations on Capacity and Ambulatory Status	80010
Advertisements and License Number	80011
False Claims	80012

Article 3. Application Procedures

Applicant Qualifications	80017
Application for License	80018
Criminal Record Clearance	80019
Criminal Record Exemption	80019.1
Child Abuse Central Index.....	80019.2
Fire Clearance	80020
Water Supply Clearance	80021
Plan of Operation	80022
Disaster and Mass Casualty Plan	80023
Waivers and Exceptions	80024
Bonding	80025
Safeguards for Cash Resources, Personal Property, and Valuables	80026
Initial Application Review	80027
Capacity Determination	80028
Withdrawal of Application	80029
Provisional License	80030
Issuance of License	80031
Repealed by CDSS Manual Letter No. CCL-01-07, effective 6/29/01	80032
Repealed by CDSS Manual Letter No. CCL-01-07, effective 6/29/01.....	80033
Submission of New Application	80034
Conditions for Forfeiture of a Community Care Facility License	80035
Licensing Fees	80036

TABLE OF CONTENTS (Continued)

Article 4. Administrative Actions

	Section
Denial of Initial License	80040
Repealed by CDSS Manual Letter No. CCL-01-07, effective 6/29/01.....	80041
Revocation or Suspension of a License	80042
Licensee/Applicant Complaints	80043
Inspection Authority of the Licensing Agency	80044
Evaluation Visits	80045
Exclusions	80046

Article 5. Enforcement Provisions

Serious Deficiencies	80051
Deficiencies in Compliance	80052
Follow-up Visits to Determine Compliance	80053
Penalties	80054
Administrative Review	80055
Denial or Revocation of License for Failure to Pay Civil Penalties	80055.1
Exemption from Civil Penalties	80056
Unlicensed Facility Penalties.....	80058
Unlicensed Facility Administrative Appeal.....	80059

80027 INITIAL APPLICATION REVIEW (Continued)

80027

HANDBOOK CONTINUES

(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in subdivision (a) and the application was denied within the last year, the department shall cease further review of the application under either of the following circumstances as follows:

- (1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.
- (2) In cases where the department informed the applicant of his or her right to petition for a hearing as specified in Section 1526 and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions which either have been corrected or are no longer in existence. The cessation of review shall not constitute a denial of the application.

HANDBOOK ENDS HERE

- | (2) The circumstances and conditions in which the licensing agency may continue to review a previously denied application shall include, but are not limited to, the following:
- (A) A fire clearance previously denied, but now approved;
 - (B) An Administrator who did not meet the minimum qualifications, but now fulfills the qualifications; or
 - (C) A person with a criminal record, which was the basis for license denial, is no longer associated with the facility.

80027 INITIAL APPLICATION REVIEW (Continued)**80027**

- (3) This review shall not constitute approval of the application.
- (4) If cessation of review occurs, the application shall be returned to the applicant. It shall be the responsibility of the applicant to request resumption of review as specified in Health and Safety Code Section 1520.3.
- (5) The application/renewal fee shall be nonrefundable as specified in Section 80036(d).

HANDBOOK BEGINS HERE

- (d) The licensing agency shall complete the following as part of the application review process:
 - (1) A site visit to the proposed facility and a determination of the qualifications of the applicant.
 - (2) A determination that the applicant has secured an appropriate fire clearance from the State Fire Marshal, if required.
 - (3) A determination that the applicant has the ability to comply with the provisions of the Community Care Facilities Act and the regulations in this division as specified in Health and Safety Code Section 1520.
 - (4) A determination that the facility complies with the provisions of the Community Care Facilities Act and the regulations in this division.

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1524, and 1530, Health and Safety Code. Reference: Sections 1520, 1520.3, 1522.1, 1523.1, and 1524, Health and Safety Code; and Section 15376, Government Code.

80035 CONDITIONS FOR FORFEITURE OF A COMMUNITY CARE FACILITY LICENSE (Continued)**80035**

- (2) The relative files with the Department within five days of the licensee's death an Application for License (LIC 200 7/91) and evidence of the licensee's death as defined in Section 80001(e)(4).
 - (A) Notwithstanding the instructions on the Application for License (LIC 200 7/91), the Department shall permit the relative to submit only the information on the front side of that form.
- (3) The relative files with the California Department of Justice within five calendar days of the licensee's death his/her fingerprint cards.
- (c) If the adult relative complies with (b)(1) and (2) above, he/she shall not be considered to be operating an unlicensed facility pending the Department's decision on whether to approve a provisional license.
- (d) The Department shall make a decision within 60 days after the application is submitted on whether to issue a provisional license pursuant to Section 80030.
 - (1) A provisional license shall be granted only if the Department is satisfied that the conditions specified in (b) above and Section 80030 have been met and that the health and safety of the residents of the facility will not be jeopardized.

NOTE: Authority cited: Sections 1524(e) and 1530, Health and Safety Code. Reference: Sections 1524 and 1524(e), Health and Safety Code.

80036 LICENSING FEES**80036**

- (a) An applicant or a licensee shall be charged fees as specified in Health and Safety Code Section 1523.1.

HANDBOOK BEGINS HERE

Health and Safety Code Section 1523.1 provides:

“(a) An application fee adjusted by facility and capacity shall be charged by the department for the issuance of a license. After initial licensure, a fee shall be charged by the department annually on each anniversary of the effective date of the license. The fees are for the purpose of financing the activities specified in this chapter. Fees shall be assessed as follows:

HANDBOOK CONTINUES

80036 LICENSING FEES (Continued)

80036

HANDBOOK CONTINUES

Fee Schedule

Facility Type	Capacity	Initial Application	Annual
Foster Family and Adoption Agencies		\$2,500	\$1,250
Adult Day Programs	1-15	\$ 150	\$ 75
	16-30	\$ 250	\$ 125
	31-60	\$ 500	\$ 250
	61-75	\$ 626	\$ 313
	76-90	\$ 750	\$ 375
	91-120	\$ 1,000	\$ 500
	121+	\$ 1,250	\$ 625
Other Community Care Facilities	1-3	\$ 375	\$ 375
	4-6	\$ 750	\$ 375
	7-15	\$ 1,126	\$ 563
	16-30	\$ 1,500	\$ 750
	31-49	\$ 1,876	\$ 938
	50-74	\$ 2,252	\$1,126
	75-100	\$ 2,628	\$1,314
	101-150	\$ 3,004	\$1,502
	151-200	\$ 3,502	\$1,751
	201-250	\$ 4,000	\$2,000
	251-300	\$ 4,500	\$2,250
	301-350	\$ 5,000	\$2,500
	351-400	\$ 5,500	\$2,750
	401-500	\$ 6,500	\$3,250
	501-600	\$ 7,500	\$3,750
	601-700	\$ 8,500	\$4,250
	701+	\$10,000	\$5,000

(b) (1) In addition to fees set forth in subdivision (a), the department shall charge the following fees:

(A) A fee that represents 50 percent of an established application fee when an existing licensee moves the facility to a new physical address.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

(B) A fee that represents 50 percent of the established application fee when a corporate licensee changes who has the authority to select a majority of the board of directors.

(C) A fee of twenty-five dollars (\$25) when an existing licensee seeks to either increase or decrease the licensed capacity of the facility.

(D) An orientation fee of fifty dollars (\$50) for attendance by any individual at a department-sponsored orientation session.

(E) A probation monitoring fee equal to the annual fee, in addition to the annual fee for that category and capacity for each year a license has been placed on probation as a result of a stipulation or decision and order pursuant to the administrative adjudication procedures of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(F) A late fee that represents an additional 50 percent of the established annual fee when any licensee fails to pay the annual licensing fee on or before the due date as indicated by postmark on the payment.

(G) A fee to cover any costs incurred by the department for processing payments including, but not limited to, bounced check charges, charges for credit and debit transactions, and postage due charges.

(H) A plan of correction fee of two hundred dollars (\$200) when any licensee does not implement a plan of correction on or prior to the date specified in the plan.

(2) Foster family homes shall be exempt from the fees imposed pursuant to this subdivision.

(3) Foster family agencies shall be annually assessed eighty dollars (\$80) for each home certified by the agency.

(4) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a facility licensed under this chapter which serves six or fewer persons.

HANDBOOK CONTINUES

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80036 LICENSING FEES (Continued)

80036

HANDBOOK CONTINUES

(c) (1) The revenues collected from licensing fees pursuant to this section shall be utilized by the department for the purpose of ensuring the health and safety of all individuals provided care and supervision by licensees and to support activities of the licensing program, including, but not limited to, monitoring facilities for compliance with licensing laws and regulations pursuant to this chapter, and other administrative activities in support of the licensing program, when appropriated for these purposes. The revenues collected shall be used in addition to any other funds appropriated in the Budget Act in support of the licensing program.

(2) The department shall not utilize any portion of these revenues sooner than 30 days after notification in writing of the purpose and use of this revenue, as approved by the Director of Finance, to the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the committee in each house that considers appropriations for each fiscal year. The department shall submit a budget change proposal to justify any positions or any other related support costs on an ongoing basis.

(d) A facility may use a bona fide business check to pay the license fee required under this section.

(e) The failure of an applicant or licensee to pay all applicable and accrued fees and civil penalties shall constitute grounds for denial or forfeiture of a license.”

HANDBOOK ENDS HERE

(b) An additional fee shall be charged when the licensee requests an increase or decrease in capacity as specified in Health and Safety Code Section 1523.1(b)(1)(C).

(c) When a licensee moves a facility from one location to another, the relocation fee shall be as specified in Health and Safety Code Section 1523.1(b)(1)(A).

(1) To qualify for the relocation fee the following shall apply:

(A) The licensee shall have notified the licensing agency before actually relocating the facility.

(B) The categorical type of facility shall remain the same when relocating the facility.

(C) The fee shall be by requested capacity at the new location.

(d) The fees shall be nonrefundable.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1523.1, and 1524, Health and Safety Code.

Article 4. ADMINISTRATIVE ACTIONS**80040 DENIAL OF INITIAL LICENSE****80040**

- (a) Except as specified in Section 80030, which provides for issuance of a provisional license based upon substantial compliance and urgent need, the licensing agency shall deny an application for an initial license if it is determined that the applicant is not in compliance with applicable law and regulation.
- (1) The licensing agency shall have the authority to deny an application for an initial license if the applicant has failed to pay any civil penalty assessments pursuant to Section 80058 and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.
- (2) An application for initial licensure shall not be denied solely on the basis that the applicant is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

HANDBOOK BEGINS HERE

- (A) Section 11165, subdivision (g) of the Penal Code states:

Child abuse means a physical injury which is inflicted by other than accidental means on a child by another person. Child abuse also means the sexual assault of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). Child abuse also means the neglect of a child or abuse in out-of-home care.

- (B) Section 273(A) of the Penal Code states:

Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 3 or 4 years.

HANDBOOK CONTINUES
